

HOUSE BILL No. 1349

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-35.

Synopsis: Renewable energy development. Requires an electricity supplier to supply a certain percentage of its total electricity supply from renewable energy resources. Establishes the renewable energy resources fund to receive penalties paid by electricity suppliers that fail to supply electricity from renewable energy resources. Appropriates money in the fund. Requires the Indiana utility regulatory commission (IURC) to adopt emergency rules amending the IURC's net metering and interconnection rules for electric utilities to: (1) make net metering available to specified customer classes; (2) allow a generating facility with a nameplate capacity of five megawatts or less to interconnect to the distribution facility of an electric utility; and (3) allow a net metering customer to interconnect a generating facility that makes use of specified technologies. Voids existing rules to the extent they do not comply with the requirements for the amended rules. Requires the IURC to report to the regulatory flexibility committee on the IURC's progress in adopting the amended rules.

Effective: Upon passage.

Dvorak

January 13, 2009, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1349

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 35. Renewable Energy Development**

5 **Sec. 1.** As used in this chapter, "electricity supplier" means a
6 public utility (as defined in IC 8-1-2-1) that furnishes retail electric
7 service to the public. The term does not include a public utility that
8 is:

- 9 (1) a corporation organized under IC 8-1-13;
10 (2) a corporation organized under IC 23-17-1 that is an
11 electric cooperative and that has at least one (1) member that
12 is a corporation organized under IC 8-1-13; or
13 (3) a municipally owned utility (as defined in IC 8-1-2-1(h)).

14 **Sec. 2. (a)** As used in this chapter, "energy efficiency measures"
15 means:

- 16 (1) the installation and use of a device; or
17 (2) the use of a method or project implemented by an

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electricity consumer;
that reduces electrical energy usage.

(b) The term includes the following:

- (1) Home weatherization.
- (2) Appliance efficiency modifications or replacements.
- (3) Motor efficiency modifications or replacements.
- (4) Lighting efficiency modifications.
- (5) Heating or air conditioning modifications or replacements.
- (6) Building designs with the purpose of achieving end use energy reductions.
- (7) Improvements that:
 - (A) increase the efficiency of transmission and distribution systems used to transmit electricity from the source to the end user; and
 - (B) reduce the loss of electricity during transmission.

Sec. 3. As used in this chapter, "fund" refers to the renewable energy resources fund established by section 11 of this chapter.

Sec. 4. As used in this chapter, "regional transmission organization" refers to a regional transmission organization approved by the Federal Energy Regulatory Commission that serves a region that includes all or part of Indiana.

Sec. 5. As used in this chapter, "renewable energy credit", or "REC", means a tradable commodity equivalent to one (1) megawatt hour of electricity generated by renewable energy resources.

Sec. 6. (a) As used in this chapter, "renewable energy resources" includes the following sources for the production of electricity:

- (1) Dedicated crops grown for energy production.
- (2) Methane systems that convert waste products, including animal, food, and plant waste, into electricity.
- (3) Methane recovered from landfills.
- (4) Wind.
- (5) Hydropower, other than hydropower involving the construction of new dams or the expansion of existing dams.
- (6) Solar energy technologies, including:
 - (A) photovoltaic cells and panels; and
 - (B) solar thermal energy.
- (7) Fuel cells that directly convert chemical energy in a hydrogen rich fuel into electricity.
- (8) Sawmill waste, other than waste derived from virgin timber.
- (9) Agricultural crop waste.

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(10) Combined heat and power systems that:

(A) use natural gas or renewable energy resources as feedstock;

(B) achieve at least seventy percent (70%) overall efficiency; and

(C) are constructed after January 1, 2009.

(11) Energy efficiency measures installed after January 1, 2009, that reduce electrical energy usage.

(12) Geothermal hot water district heating systems.

(13) Electricity generated through net metering.

(b) The term does not include energy from the incineration, burning, or heating of the following:

(1) Tires.

(2) Garbage, including municipal solid waste burned as fuel to generate electricity.

(3) General household, institutional, or commercial waste.

(4) Industrial lunchroom or office waste.

(5) Landscape waste.

(6) Construction or demolition debris.

(7) Feedstock that is municipal, food, plant, industrial, or animal waste from outside Indiana.

Sec. 7. Each electricity supplier shall supply electricity generated or reduced by renewable energy resources to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers as follows:

(1) Not later than December 31, 2009, at least one percent (1%).

(2) Not later than December 31, 2010, at least two percent (2%).

(3) Not later than December 31, 2011, at least three percent (3%).

(4) Not later than December 31, 2012, at least four percent (4%).

(5) Not later than December 31, 2013, at least six percent (6%).

(6) Not later than December 31, 2014, at least eight percent (8%).

(7) Not later than December 31, 2015, at least ten percent (10%).

(8) Not later than December 31, 2016, at least twelve percent (12%).

(9) Not later than December 31, 2017, at least fourteen

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percent (14%).

(10) Not later than December 31, 2018, at least sixteen percent (16%).

(11) Not later than December 31, 2019, at least eighteen percent (18%).

(12) Not later than December 31, 2020, at least twenty percent (20%).

For purposes of this subsection, electricity is measured in megawatt hours.

Sec. 8. (a) An electricity supplier may use a renewable energy resource described in section 6(a)(10) of this chapter to generate not more than ten percent (10%) of the electricity that the electricity supplier is required to supply under section 7 of this chapter.

(b) An electricity supplier may use a renewable energy resource described in section 6(a)(11) of this chapter to generate not more than fifty percent (50%) of the electricity that the electricity supplier is required to supply under section 7 of this chapter.

(c) An electricity supplier may own, generate, purchase, or trade RECs to comply with section 7 of this chapter.

(d) An electricity supplier is responsible for conducting sufficient advance planning to acquire its allotment of RECs.

(e) An electricity supplier that is required, and fails, to comply with section 7 of this chapter shall deposit in the renewable energy resources fund established under section 11 of this chapter an amount equal to:

- (1) the number of megawatt hours of electricity that the electricity supplier was required to but failed to supply under section 7 of this chapter; multiplied by
- (2) fifty dollars (\$50).

An electricity supplier may not recover from its customers a cost incurred under this subsection.

Sec. 9. (a) An electricity supplier is not required to comply with section 7 of this chapter if the commission determines that events beyond the reasonable control of the electricity supplier prevent it from meeting its renewable energy resources or REC requirements. For purposes of this section, "events beyond the reasonable control of the electricity supplier" include only the following:

- (1) Weather related damage.
- (2) Mechanical failure.
- (3) Lack of transmission capacity or availability.

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1 (4) Strikes or lockouts.

2 (5) Actions of a governmental authority that adversely affect
3 the generation, transmission, or distribution of energy from
4 renewable energy resources under contract to a purchaser.

5 (6) An emergency as found by the commission under
6 IC 8-1-2-113.

7 The term does not include failure of the spot or short term market
8 to supply an electricity supplier with the allocated number of
9 RECs.

10 (b) The commission shall conduct a public hearing before
11 making a determination under subsection (a).

12 (c) If the commission determines under subsection (a) that
13 events beyond the reasonable control of the electricity supplier
14 prevent it from meeting its renewable energy resources or REC
15 requirements, the commission shall:

16 (1) reduce the affected electricity supplier's obligations under
17 section 7 of this chapter as appropriate; and

18 (2) review its determination not more than six (6) months
19 after the reduction under subdivision (1) takes effect.

20 Sec. 10. (a) For purposes of calculating RECs to determine an
21 electricity supplier's compliance with section 7 of this chapter, the
22 following apply:

23 (1) One (1) megawatt hour of electricity generated by
24 renewable energy resources in an Indiana facility equals one
25 (1) REC.

26 (2) One (1) megawatt hour of electricity generated by a
27 renewable energy resource described in section 6(a)(2) or
28 6(a)(6) of this chapter that originates in Indiana equals two (2)
29 RECs.

30 (3) One (1) megawatt hour of electricity generated by a
31 renewable energy resource described in section 6(a)(8) or
32 6(a)(9) of this chapter that originates in Indiana equals one
33 and two-tenths (1.2) RECs.

34 (4) One (1) megawatt hour of electricity that is generated by
35 a renewable energy resource in the territory of a regional
36 transmission organization and imported into Indiana equals
37 the following:

38 (A) For the period beginning July 1, 2009, and ending
39 December 31, 2011, one (1) REC.

40 (B) For the period beginning January 1, 2012, and ending
41 December 31, 2015, five-tenths (0.5) REC.

42 (b) An electricity supplier may satisfy not more than ten percent

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(10%) of the electricity supplier's requirement under section 7 of this chapter by owning or purchasing RECs generated by a renewable energy resource described in section 6(a)(10) of this chapter.

(c) An REC calculated under this section shall be increased as follows:

(1) An REC that is:

(A) generated by a renewable energy resource other than a renewable energy resource described in section 6(a)(4) of this chapter; and

(B) available during periods of peak demand;

is increased by two-tenths (0.2) REC.

(2) An REC that is:

(A) generated during periods of nonpeak demand; and

(B) stored and made available during periods of peak demand;

is increased by two-tenths (0.2) REC.

(3) An REC that is generated using equipment made in Indiana, as determined by the commission, is increased by one-tenth (0.1) REC.

(4) An REC that is generated in a facility constructed by Indiana workers, as determined by the commission, is increased by one-tenth (0.1) REC.

Sec. 11. (a) The renewable energy resources fund is established to provide funding for the following:

(1) Renewable energy technology research at state supported colleges and universities.

(2) Grants or other financial incentives for renewable energy manufacturing projects.

(3) Education and technical assistance projects that encourage businesses and industries to install energy efficiency and renewable energy technologies.

(4) The design, planning, construction, and use of renewable energy resources in Indiana, including facilities with a nameplate capacity of five (5) megawatts or less that generate electricity from renewable energy resources.

(b) The fund consists of the following:

(1) Money deposited under section 8(e) of this chapter.

(2) Money from any other source that is deposited in the fund.

(c) The Indiana economic development corporation shall administer the fund.

(d) The expenses of administering the fund shall be paid from

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1 money in the fund but may not exceed ten percent (10%) of the
2 balance in the fund.

3 (e) The treasurer of state shall invest the money in the fund not
4 currently needed to meet the obligations of the fund in the same
5 manner as other public money may be invested. Interest that
6 accrues from these investments shall be deposited in the fund.

7 (f) Money in the fund at the end of a state fiscal year does not
8 revert to the state general fund. Money in the fund is continuously
9 appropriated for purposes of the fund.

10 Sec. 12. Not later than March 1, 2011, and each year thereafter,
11 a utility shall file with the commission a report of the utility's
12 compliance with this chapter for the preceding calendar year.

13 Sec. 13. (a) The commission shall allow an electricity supplier to
14 recover the following costs under the schedule set forth in
15 subsection (b):

16 (1) Reasonable and necessary costs incurred in:

17 (A) constructing, operating, or maintaining facilities to
18 comply with this chapter; or

19 (B) generating electricity from, or purchasing electricity
20 generated from, a renewable energy resource;
21 by a periodic rate adjustment mechanism.

22 (2) Up to one million dollars (\$1,000,000) each year for
23 expenditures related to alternative or renewable energy
24 research that is conducted in Indiana.

25 (b) The commission shall limit the total increase per customer
26 account per billing cycle for costs recovered under subsection (a)
27 as follows:

28 (1) For billing cycles between January 1, 2010, and December
29 31, 2012, one percent (1%) of a customer's overall electric
30 bill.

31 (2) For billing cycles between January 1, 2013, and December
32 31, 2014, one and twenty-five hundredths percent (1.25%) of
33 a customer's overall electric bill.

34 (3) For billing cycles between January 1, 2015, and December
35 31, 2016, one and five-tenths percent (1.5%) of a customer's
36 overall electric bill.

37 (4) For billing cycles between January 1, 2017, and December
38 31, 2018, one and seventy-five hundredths percent (1.75%) of
39 a customer's overall electric bill.

40 (5) For billing cycles beginning after December 31, 2018, two
41 percent (2%) of a customer's overall electric bill.

42 Sec. 14. The commission shall adopt rules under IC 4-22-2 to

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1 implement this chapter, including rules to establish a program for
 2 the certification and trading of RECs to comply with section 7 of
 3 this chapter.

4 SECTION 2. [EFFECTIVE UPON PASSAGE] Not later than
 5 April 1, 2014, the Indiana utility regulatory commission shall
 6 submit a report in an electronic format under IC 5-14-6 to the
 7 general assembly. A report submitted under this SECTION must
 8 include:

9 (1) an analysis of; and

10 (2) any legislative proposals the commission believes would
 11 increase;

12 the effectiveness of and industry compliance with IC 8-1-35, as
 13 added by this act.

14 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this
 15 SECTION, "commission" refers to the Indiana utility regulatory
 16 commission created by IC 8-1-1-2.

17 (b) Subject to subsection (c) and not later than July 1, 2009, the
 18 commission shall adopt rules to amend the net metering and
 19 interconnection rules adopted by the commission and codified at
 20 170 IAC 4-4.2. The rules adopted by the commission under this
 21 subsection must do the following:

22 (1) Require an electric utility to offer net metering to at least
 23 the following customer classes:

24 (A) Residential customers.

25 (B) Commercial customers.

26 (C) Industrial customers.

27 (D) Agricultural customers.

28 (E) Local governments.

29 (F) The state.

30 (G) Kindergarten through grade 12 schools.

31 (H) Postsecondary educational institutions (as described in
 32 IC 6-3-3-5).

33 (2) Allow a net metering customer to interconnect a
 34 generating facility with a nameplate capacity of five (5)
 35 megawatts or less to a distribution facility of an electric
 36 utility.

37 (3) Allow a net metering customer to interconnect a facility
 38 that generates electricity through any of the following
 39 technologies:

40 (A) Solar.

41 (B) Wind.

42 (C) Microhydroelectrical facilities.

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1 (D) Microturbines using renewable fuels.

2 (E) Fuel cells using renewable fuels.

3 (F) Biogas, including anaerobic digestion and biogas from
4 municipal solid waste.

5 (c) The commission shall initially adopt the rules required by
6 subsection (b) in the same manner as emergency rules are adopted
7 under IC 4-22-2-37.1. Rules adopted under this subsection expire
8 on the date final rules are adopted by the commission under
9 IC 4-22-2-24 through IC 4-22-2-36 implementing the requirements
10 of subsection (b).

11 (d) Not later than June 1, 2009, the commission shall evaluate
12 the net metering and interconnection rules adopted by the
13 commission and codified at 170 IAC 4-4.2 for compliance with the
14 requirements set forth in subsection (b). To the extent that any
15 rules codified at 170 IAC 4-4.2 do not meet the requirements set
16 forth in subsection (b), the rules are void. Not later than June 15,
17 2009, the commission shall notify the publisher of the Indiana
18 Administrative Code and Indiana Register of any rules codified at
19 170 IAC 4-4.2 that are void under this subsection. The publisher
20 shall remove the rules that are void under this subsection from the
21 Indiana Administrative Code.

22 (e) Not later than November 1, 2009, the commission shall
23 report to the regulatory flexibility committee established by
24 IC 8-1-2.6-4 on the commission's progress in finally adopting,
25 under IC 4-22-2-24 through IC 4-22-2-36, the emergency rules
26 initially adopted by the commission under subsection (b).

27 (f) This SECTION expires January 1, 2011.

28 SECTION 4. An emergency is declared for this act.

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